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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/796,197

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EXAMINER

ORR, HENRY W

ART UNIT

PAPER NUMBER

2176

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/796,197

Applicant(s)

POHLAN, RUDOLF

Examiner

Henry Orr

Art Unit

2197

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to application communication filed March 10, 2004;
2. Claims 1-11 are pending in the case. Claims 1 and 8 are independent claims.

Priority

3. Applicant's claim for the benefit of foreign DE application #10144390.0, filed September 10, 2001 under 35 U.S.C. 119(a)-(d) is acknowledged.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

a) Ref. #12' in Figure 3

b) Ref. #21 in Figure 5

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claim 10 is objected to because of the following informalities:
- a) Replace recited phrase **“the graphic markings”** in line 1 with **“the predefined graphic markings”** to clearly referred back to base claim 1.
 - b) Replace recited phrase **“replaces an original respective at least one pictogram”** in line 3 with **“replaces an original pictogram”** because it appears to be a typo according to applicant specification p. 5 par. 18 in the last line.
- Appropriate corrections are required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 1 recite the terms **“clearly”** and **“similar”**, which render the scope of the claim as indefinite. The terms **“clearly”** and **“similar”** are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one

of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 1 recites the pronoun **“other”** in line 6, which renders the claim as indefinite because what is being referred to as **“other”** is not set forth in the claim.

Claim 1 recites the phrase **“the compared directory tree”** in line 3. There is insufficient antecedent basis for this limitation in the claim because **“the compared directory tree”** has not been previously recited.

Claim 1 recites **“a method for displaying a comparison result”** in the preamble. However, the body of the claim is silent on the required steps to arrive with **“displaying a comparison result”**, therefore rendering the claim as indefinite.

Claim 1 recites the phrase **“each respective directory tree”** in line 5. There is insufficient antecedent basis for this limitation in the claim because it is unclear whether **“each respective directory tree”** in line 5 is referring to **“respective directory trees”** in line 2.

Claim 3 is generally narrative and indefinite, failing to conform to current U.S. practice. Claim 3 recites the phrase **“wherein, to show from which of the compared directory trees the additional folders come”**, which appears to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. Examiner suggest to applicant to omit the narrative phrase to overcome rejection.

Claim 3 recites the phrase **“predefined markings”**. There is insufficient antecedent basis for this limitation in the claim because it is unclear whether

“predefined markings” in claim 3 is referring to **“predefined graphic markings”** in claim 1.

Claims 4 and 5 recite the phrase **“files or folders”**. There is insufficient antecedent basis for this limitation in the claims because it is unclear whether **“files or folders”** in claims 4 and 5 are referring to **“the files or folders”** in claim 1.

Claim 4 recites the pronoun **“their”** in line 2, which renders the claim as indefinite because what is being referred to as **“their”** is not set forth in the claim.

Claim 8 recites the terms **“similar”** and **“clear”**, which render the scope of the claim as indefinite. The terms **“similar”** and **“clear”** are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Dependent claims 2-7 and 9-11 are rejected for fully incorporating the deficiencies of their respective base claims.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-5 and 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Huberman et al. (hereafter referred to as Huberman), U.S. Patent # 6,278,452 B1.

Regarding claim 1, Huberman teaches **"The invention can be used generally to compare any of two or more sets of objects, including, but not limited to, the contents of two or more computer directories, the contents of two or more folders in a computer directory, two or more files in two or more databases"** (col. 2 lines 49-56). (claim 1; i.e., comparing the files or folders of each respective directory tree for which a comparison is desired with each other to evaluate structural or content differences between the compared files or folders;)

Huberman further teaches **"a result view comprises a generated tree having representations of the results of the comparisons of respective object pairs, as they are compared. A result view of the tree, representing a graphical user interface representation of the tree, is thereafter displayed to the user"** (col.3 lines 6-14). (claim 1; i.e., forming a single result directory tree in which the structural or content differences between the compared files or folders are displayed by predefined graphic markings.) Examiner considers the representations of the results as displayed predefined graphic markings as illustrated in Figures 11A-F.

Regarding claims 2 and 3, Huberman teaches **"The "rightOnly" state symbol 384 also shows that there is no corresponding object in the left source, as indicated by the empty left-side box"** (col.9 lines 25-28). (claim 2; i.e., graphically displaying, in the single result directory tree, additional files or folders that are present in

one of the compared directory trees as corresponding additional folders.) (claim 3; i.e., to show from which of the compared directory trees the additional folders come, the corresponding additional folders are provided with corresponding predefined markings.) Examiner considers the **"rightOnly"** state symbol to be a predefined marking that represent an additional object in the right directory source that is not present in the left directory source.

Regarding claim 4, Huberman teaches **"The result view 701 also indicates that objects of the Emp object pair are not equal as the respective object node 710 has a corresponding "not equivalent" state symbol 389"** (col. 19 lines 45-48). (claim 4; i.e., wherein files or folders that have the same identity but differ with respect to their respective object attributes are graphically identified in the single result directory tree.) Examiner considers the **"not equivalent"** state symbol to graphically identify objects with the same identity such as the Emp object pair but differ with respect to their attributes as illustrated in Figure 19.

Regarding claim 5, Huberman teaches **"at least one object pair of table type objects are not equal, the table object type node 704 also has a corresponding "different" status symbol 524 associated with it"** (col. 19 lines 50-54). (claim 5; i.e., wherein higher-level folders, which contain files or folders with a different identity or with different object attributes, are graphically marked in the single result directory tree.) Examiner considers the table object node to be a higher-level folder graphically marked with a **"different"** status symbol because it contains objects with different object attributes as illustrated in Figure 19.

Regarding claim 7, Huberman teaches **"Detailed results of the Emp table object pair were requested to be displayed by the user"** (col. 19 lines 55-63). (claim 7; i.e., wherein object attributes of the files or folders are displayed as a list in the single result directory tree in which the differences resulting from the comparison are graphically marked.) Examiner considers Figure 19 to illustrate the list as recited in claim 7.

Claim 8 is directed towards a system claim and is substantially encompassed in method claim 1, therefore the system claim is rejected under the same rationale as method claim 1 above. In respect to the system of claim 8, Huberman teaches **"The main memory 8 also may be used for storing temporary data, i.e., variables, or other intermediate information during execution of instructions by the processor(s) 7"** (col. 20 lines 45-48). (claim 8; i.e., a memory unit operable to store the directory trees, wherein the directory trees are each formed in a similar hierarchical arrangement of files, folders or a combination of files and folders; a microprocessor unit operable to compare and evaluate structural or content differences between the stored directory trees;) Examiner considers the main memory and processor to be capable of performing the limitations of the memory unit and microprocessor as recited in system claim 8.

Huberman further teaches **"a display device 11, such as, but not limited to, a cathode ray tube (CRT), for displaying information to a user"** (col. 20 lines 55-57). (claim 8; i.e., a graphic display unit operable to display a graphically clear display of the comparison result, which comprises a single result directory tree in which the structural

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or content differences between the compared directory trees are displayed by predefined graphic markings.) Examiner considers the display device to be capable of performing the limitations of the graphic display unit as recited in system claim 8.

Regarding claim 9, Huberman's **Figures 11A-F illustrate predefined graphic markings that comprise of graphic symbols (see Figures 11A-F).** (claim 9; i.e., wherein the predefined graphic markings comprise at least one of various color markings and graphic symbols.)

Regarding claim 10, Huberman teaches "**checks whether all the container nodes and the root node for the current object pair have had their status symbols updated**" (col. 13; lines 44-50). (claim 10; i.e., wherein the graphic markings comprise at least one pictogram that indicates the differences between the directory trees and replaces an original respective at least one pictogram of the file or the folders of the compared directory trees.) Examiner considers the updated status symbol to be a pictogram that replaces the original status pictogram of the folder as illustrated in the process of Figure 13B.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huberman as cited and applied to claim 1 above, in view of Fontes, U.S. Patent # 6,912,701 B1.

Regarding claim 6, Huberman does not expressly teach identical compared files and folders being represented without any of the predefined graphic markings. However, Fontes **Figure 16A illustrates a single window listing the summary of result for comparing two directories. The files that are the same in each directory have a corresponding text result listed as "same" but do not have any predefined graphic markings (Fontes; col. 7 lines 56-65, Figure 16A).** (claim 6; i.e., wherein ones of the files and folders, that are identically present with respect to their identity and object attributes in the compared directory trees, are shown in the single result directory tree without any of the predefined graphic markings.) Examiner does not consider the text result marking "same" to be a graphic marking.

In the same field of endeavor, objects are being compared and the differences between the objects are combined into a single result (Fontes; abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Huberman single result tree to display objects having the same identity with text and without predefined graphic markings as taught by Fontes to provide the benefit of another manner to indicate to the user that something has changed between the two objects (Fontes; col. 5 lines 54-59).

Regarding claim 11, Huberman does not expressly teach a print unit. However, Fontes teaches **"attached to the personal computer 100 may be other devices**

such as etc...printers" (col. 2 lines 46-52). (claim 11; i.e., comprising a print unit operable to print various information, wherein the differences in the compared directory trees are printed out in list form on said print unit or stored as a file in said memory unit.)

In the same field of endeavor, objects are being compared and the differences between the objects are combined into a single result (Fontes; abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include on Huberman Figure 2B bus interface a printer as taught by Fontes to provide the function of printing documents from application programs as desired by user (Fontes; Figure 1).

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry Orr whose telephone number is (571) 274 1308. The examiner can normally be reached on Monday thru Friday 8 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on (571) 270 1279. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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1/3/2007
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